

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL NOS. 494
AND 1220,

Case No. 18-RC-272212

Petitioner,

and

COLECTIVO COFFEE ROASTERS, INC.,

Employer.

EMPLOYER'S OBJECTIONS TO ELECTION

Colectivo Coffee Roasters, Inc., the Employer in the above-referenced matter, hereby objects to the representation election held by mail with ballots counted on April 6, 2021, on the grounds that Petitioner engaged in unlawful conduct during the election affecting the results of the election, as set forth below; the Employer requests that, in the event the counting of any challenged ballots results in the Petitioner achieving a majority of the votes cast in favor of the Petitioner, that the election be set aside and that a new election be held, for the following reasons:

1. The Petitioner wrongfully handled the ballot of Nathan Danford after repeatedly soliciting voters to provide assistance in completing and handling their ballots.

At or near the time the ballots were sent to voters in this election, a supervisor at the Employer's Humboldt café, Jessica Ochocki, received several messages sent through Facebook to employees who worked at the Employer's Humboldt location. In these messages, a vocal Union supporter, Hillary Laskonis, offered to help employees complete their ballots. There were also multiple messages posted to a Facebook page "Colectivo TiVo Memes" in which the Petitioner's supporters offered to help employees complete their ballots. Union supporters also sponsored get

togethers called “social Saturdays” where voters would gather with Union supporters to complete and mail ballots. On a date in March after the ballots were sent, the ballot of voter 127, Nathan Danford, was found in the Humboldt café unattended and not in the possession of Mr. Danford. An employee brought the presence of the Danford ballot to Ms. Ochocki, who secured the ballot and later gave it to Mr. Danford. The Board has explicitly ruled that “where one party collects or otherwise handles [a voter’s] mail ballots, that conduct is objectionable and may be the basis for setting aside the election.” *Fessler & Bowman, Inc. and Local 9, International Brotherhood of Bricklayers*, 341 NLRB 932, 934 (2004). The Board reasoned that where parties, other than the actual voter who cast the ballot, handle someone else’s ballot, such conduct casts doubt on the integrity of the election process and undermines election secrecy. This rule is consistent with the Board’s important interest in ensuring the integrity of the election process in a manner which raises “no reasonable doubt concerning their fairness or validity.” *Brink’s Armored Car and Armored Car Employees Union Local No. 1*, 278 NLRB 141.

In this case, there is no doubt that the ballot of Nathan Danford was handled by people other than Mr. Danford. Union supporters repeatedly offered to help others complete their ballots and sponsored get togethers for groups to prepare ballots. Mr. Danford’s ballot was found unattended with the seal broken at the Employer’s Humboldt location available for anyone to touch, handle, or manipulate for an unknown period of time.

The mishandling of Mr. Danford’s ballot is a sufficient basis to set aside any election results adverse to the Employer. As of this writing, the vote is tied 99 to 99 with 17 challenged ballots in dispute. As a result, the Petitioner’s mishandling of the ballot calls into question the validity of Danford’s vote, other votes, and whether the Petitioner’s behavior unlawfully affected the outcome of the election.

2. The Petitioner's solicitation to assist voters complete and handle their ballots and its sponsorship of meetings for this purpose is a sufficient basis to set aside the election.

In the *Fessler* decision, the Board's dissenting opinion persuasively sets forth the reasons why the union's solicitation of ballots is objectionable conduct. Specifically, the "integrity of the electoral process demands that the employee control the ballot at all times." *Fessler*, 341 at 935. And, that any attempt to interfere with that process is objectionable regardless of whether the effort was successful. *Id.* In this case, the Petitioner was successful by causing Danford's ballot to be handled by others. Moreover, the Petitioner's success in mishandling Danforth's ballots is strong evidence that its other invitations to gather voters together for the purpose of handling their ballots were successful. Union supporters sent multiple texts offering to assist voters with their ballots and sponsored Saturday get togethers where Union supporters would help complete ballots of others. The Regional Director should not excuse the Petitioner's conduct of gathering voters to handle ballots together. The Board does not allow unions or their supporters to gather employees together in private meetings to help them cast ballots in a manual election and such conduct should not be tolerated in an in-person election. The Petitioner's efforts to handle ballots affected at least all the coworkers at the Humboldt location which includes over 20 voters, who received the Facebook messages. Therefore, the Petitioner's objectionable behavior unlawfully impacted the results of the election.

For all the foregoing reasons, the Regional Director should set aside the results of representation election in the above-referenced matter and order a new manual election held at a future date agreed upon by all parties, in the event that the Petitioner secures a majority of the votes cast following any counting of challenged ballots.

Dated at Green Bay, Wisconsin, this 13th day of April, 2021.

GODFREY & KAHN, S.C.

By: 

John A. Haase
State Bar No. 1027536

Attorneys for Employer, Colectivo Coffee Roasters,
Inc.

P.O. ADDRESS:

200 South Washington Street, Suite 100
Green Bay, WI 54301-4298
Phone: 920-432-9300
Fax: 920-436-7988
jhaase@gklaw.com

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL NOS. 494
AND 1220,

Case No. 18-RC-272212

Petitioner,

and

COLECTIVO COFFEE ROASTERS, INC.,

Employer.

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2021, I served a copy of the foregoing Employer's Objections to Election on Petitioner by email at: dean@ibew494.com (Dean Warsh, IBEW, Local Unions 494 and 1220); joe_dimichele@ibew.org (Joe DiMichele, International Lead Organizer); and jh@previant.com (Jill Hartley, attorney for IBEW).

Dated this 13th day of April, 2021.

GODFREY & KAHN, S.C.

By: 

John A. Haase

State Bar No. 1027536

Attorneys for Employer, Colectivo Coffee
Roasters, Inc.

P.O. ADDRESS:

200 South Washington Street, Suite 100
Green Bay, WI 54301-4298
Phone: 920-432-9300
Fax: 920-436-7988
jhaase@gklaw.com